



45724

DEPT. OF TRANSPORTATION
DOCKET SECTION

98 OCT 26 PM 2:21

The Conference on
Safe Transportation of
Hazardous Articles, Inc.

October 26, 1998

President

Kristine VanVolkinburg
Amway Corporation
(616) 787-5428 FAX (616) 787-5229

First Vice President

Mary P. Kilcoyne
The Soap & Detergent Assn.
(212) 725-1262 FAX (212) 213-0685

Second Vice President

Robert Heinrich
Warner-Lambert Company
(973) 540-2794 FAX (973) 540-3424

Treasurer

Mari Ann Gordon
Carter Wallace, Inc.
(609) 520-3124 FAX (609) 520-3114

Secretary

Candy L. Cook
DGI Training Center
(904) 321-0874 FAX (904) 321-1801

Directors

David H. Anderson
Unilever H.P.C. USA
(860) 664-2374 FAX (860) 664-2612

William R. Fields
Eli Lilly & Company
(317) 276-2570 FAX (317) 276-0062

Joe Frith
Ovomite Transportation Company
(804) 231-8265 FAX (804) 231-8154

Mark Fukayama
International Flavors & Fragrances, Inc.
(732) 335-2411 FAX (732) 335-2599

William R. Kay
Hoffmann-LaRoche, Inc.
(973) 235-4285 FAX (973) 235-7930

Elliot Kleinman
Citrus & Allied Essences, Ltd.
(410) 273-9500 FAX (410) 273-9503

Dennis V. Lech
Pfizer, Inc.
(901) 387-5374 FAX (901) 387-5265

Kenneth Malstrom
Bristol-Myers Squibb Co.
(203) 975-5381 FAX (203) 975-5603

General Counsel

Lawrence W. Bierlein
McCarthy, Sweeney & Harkaway
(202) 393-5710 FAX (202) 393-5721

U. S. Department of Transportation Dockets
Room PL 401
400 Seventh Street, SW
Washington DC 20590

Re: Docket No. FAA-1998-4458 -5

Dear Sir or Madam:

COSTHA, the Conference on Safe Transportation of
Hazardous Articles, Inc., hereby comments on the proposals set
forth in the referenced docket in the Federal Register of August 27,
as corrected on September 24.

COSTHA is an interindustry federation of trade
associations, traffic conferences, and individual companies sharing
an interest in the safe and efficient distribution of packaged articles
under the Hazardous Materials Regulations. Our interest is in all
modes of transportation, including shipments by passenger and
cargo aircraft.

Our comment is directed at what we believe to be the
general impropriety of this publication, rather than any particular
concern with chemical oxygen generators.

7811 Carrleigh Parkway
Springfield, VA 22152
703/451-4031
Fax: 703/451-4207
<http://www.costha.com>
e-mail: mail@costha.com

COSTHA, as an organization, has been involved with rulemaking and implementation of the DOT hazardous materials regulations since the early 1970s. At that time, during a period apparently not remembered by anyone at the FAA working on this docket, all of the regulations were issued by separate modal entities.

Within DOT, the FAA ran in one direction, the Coast Guard in another, the Federal Highway Administration in a third, the Federal Railroad Administration in a fourth and, not to be overlooked, the Secretary in a fifth. The DOT regulations did not even appear in the same book, with the FAA's unique rules appearing in title 14 CFR, the Coast Guard's in 46 CFR, and rail and highway's rules in different parts of 49 CFR.

Outside DOT, air carriers wrote their own rules, paying little or no attention to the DOT/FAA regulations, and published them in contract form as Tariff No. 6-D. This practice was sanctioned by the Civil Aeronautics Board and the rules were written with little notice, no comment, and even less consideration of their impact on the transportation community or aviation safety.

Internationally, the air carriers wrote their own rules, also in tariff form, but under the name of "regulations" published by IATA.

This chaotic and irresponsible approach to regulation had an unintended consequence -- it killed people. We are trying to avoid repetition of that unfortunate experience.

The extensive NTSB and legislative inquiry into the crash of a Pan Am B-707 in Boston in November 1973 confirmed that no one knew what they were doing. Shippers, carriers, forwarders, and federal agencies alike were baffled by a multitude of different


texts from different sources, all of which were inconsistent and each of which proclaimed to be the governing document.

In the lesson learned then but seemingly forgotten, everyone began to pull together with an emphasis on greater regulatory clarity and consistency. Among these steps were (1) passage of the Hazardous Materials Transportation Act, for the first time vesting all modal regulatory authority in one place; (2) consolidation of the hazardous materials regulations into one CFR volume; (3) removal of the CAB, at DOT's insistence, from the hazardous materials regulatory arena; and, (4) establishment of the International Civil Aviation Organization's Dangerous Goods Panel as the official government-based developer of hazardous materials codes for the international shipment of goods by air.

It took years to accomplish, but what we have had until publication of this FAA notice was a coordinated system bringing relative uniformity to hazardous materials regulations across national borders and across modal boundaries.

Irrespective of the details of this proposal, therefore, COSTHA urges all of the FAA to work more closely with the other elements of the Department of Transportation involved in hazardous materials regulation, to assure continued progress toward a coordinated and harmonized regulatory system.

Please contact me if you have any questions on this comment. Thank you.

Sincerely,

Lawrence W. Bierlein